

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BUILDERS BANK,

Plaintiffs,

VERIFIED ANSWER

-against-

Index No.: 12 CIV 2054

THE HIGHLINE PARK, LLC,
DAVID KISLIN, LEO TSIMMER
And JOHN DOES 1-3

Defendants.
-----X

VERIFIED ANSWER

PLEASE TAKE NOTICE that DEFENDANTS DAVID KISLIN and THE HIGHLINE PARK, LLC, appears by their attorney, JACK L LESTER, ESQ. answers and counterclaims as follows:

1. Defendants deny the allegations set forth in paragraphs "1", "2", "3", "5a)", "5b)", "6", "7", "14", "15", "16", "17", "18", "20", "21", "23", "24", "25", "28", "29"
2. Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraphs "4", "8", "9", "10", "11", "12", "13", "26", "27".

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

3. Plaintiff is guilty of laches and therefore the proceeding must be dismissed

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

4. Plaintiff has failed to state a cause of action cognizable in law.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

5. Plaintiff has assigned the mortgage contrary to law and public policy.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

6. Plaintiff lacks a standing to maintain this action

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

7. Plaintiff has failed to disclose to defendant the terms of the mortgage loan in accordance with the Truth in Lending Act.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

8. Plaintiff has failed to plead the performance or occurrence of conditions precedent in accordance with law.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

9. Plaintiff has failed to comply with the disclosure requirements of 12. C.F.R. Section 226.9

AS AND FOR A EIGHT AFFIRMATIVE DEFENSE

10. The mortgage transaction is void for fraud.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

11. The mortgage transaction is void for unconscionability, inadequate disclosure, interest rate manipulation and/or predatory lending.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

12. The Documents annexed for the Complaint are incomplete, defective and/or evidentiary inadmissible and therefore incompetent.

AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE

13. Plaintiff was unjustly enriched as a result of the mortgage at issue in this proceeding.

AS AND FOR A TWELVTH AFFIRMATIVE DEFENSE

14. Plaintiff is guilty of misrepresentation.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

15. Plaintiff sold the mortgage without authority, contrary to law and express and implied agreements.

AS AND FOR A FOURTHEENTH AFFIRMATIVE DEFENSE

16. Plaintiff has not been lawfully delegated the authority to commence this proceeding.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE

17. This proceeding is improperly commenced in Federal Court.

AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE

18. This proceeding was not served upon defendants in accordance with lawful procedure and therefore the Court lacks jurisdiction.

COUNTERCLAIM

19. As a result of the fraud, unjust enrichment, misrepresentation and illegal acts as aforesaid, Defendant is entitled to monetary damages as determined by the Court.

WHEREFORE, Defendant respectfully requests judgment against Plaintiff as follows:

- (A) Based upon Affirmative Defenses dismissing the Complaint:
- (B) Granting Defendant costs, disbursements, and attorneys' fees in connection with this action; and
- (C) Granting such other and further relief as this Court may deem just and proper.

Dated: April 12, 2012
New York, New York

A handwritten signature in dark ink, appearing to read "Jack L. Lester", is written over a horizontal line.

JACK L. LESTER, ESQ.
Attorney for Respondent
261 Madison Avenue, 26th Fl.
New York, NY 10016
(212) 832-5357

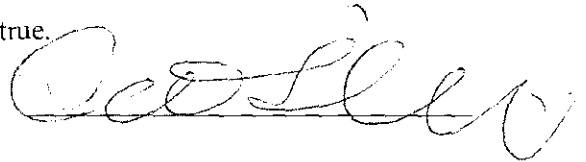
TO: Richard D. Grossman
Law Offices of Richard D. Grossman
225 West Walker Drive Suite 1550
Chicago, IL 60606

VERIFICATION

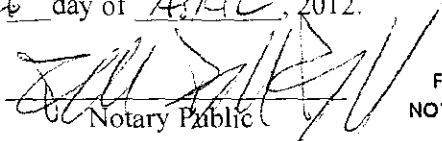
STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

DAVID KISLIN, being duly sworn, deposes and says:

Deponent has read the foregoing Verified Answer, Affirmative Defense and Counterclaim, and knows the contents thereof; and the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief and as to those matters, deponent believes them to be true.



Sworn to before me on this
26th day of APRIL, 2012.


Notary Public

FEDERICO BALDESCHI BALLEANI
NOTARY PUBLIC-STATE OF NEW YORK
No. 01BA6168258
Qualified in New York County
My Commission Expires June 11, 2015

LORRAINE CATALANO
Commissioner of Deeds, City of New York
No. 1-6419
Certificate Filed in New York County
Commission Expires on May 1, 2013